

NTSB Order No. EA-5091

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD  
at its office in Washington, D.C.  
on the 25th day of May, 2004

Respondent.

Docket SE-16809

The respondent has appealed from the written decision Administrative Law Judge Patrick G. Geraghty served in this proceeding on June 27, 2003.<sup>1</sup> By that order, the law judge granted the Administrator's motion for summary judgment on a complaint alleging that the respondent's air carrier operating certificate should be revoked because it lacks the qualifications necessary to hold the certificate and is not in compliance with

<sup>1</sup>A copy of the law judge's decision is attached.

section 119.69(a) of the Federal Aviation Regulations, "FAR," 14 C.F.R. Part 119.<sup>2</sup> The appeal will be denied.<sup>3</sup>

The January 23, 2003 Order of Revocation, which served as the complaint, alleged, among other things, the following facts and circumstances concerning the respondent:

1. CASINO AIRLINES, INC. now, and at all times mentioned herein was, the holder of Air Carrier Certificate No. C37A664H, authorized to conduct supplemental operations in common carriage service under Part 121 of the Federal Aviation Regulations.
2. Since at least April 3, 2001, CASINO AIRLINES, INC. has not had a qualified Chief Pilot.
3. Since at least April 18, 2001, CASINO AIRLINES, INC. has not had a qualified Director of Maintenance, Chief Inspector, or Director of Safety.
4. Since at least March 6, 2001, CASINO AIRLINES, INC. has not conducted any revenue flights.
5. Since at least March 6, 2001, CASINO AIRLINES, INC. terminated operations.
6. Since at least April 19, 2001, CASINO AIRLINES, INC. has not maintained its principal base of operations in Santa Maria, CA, as required in its Operations Specifications.

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<sup>2</sup> FAR section 119.69(a) provides as follows:

**§ 119.69 Management personnel required for operations conducted under part 135 of this chapter.**

(a) Each certificate holder must have sufficient qualified management and technical personnel to ensure the safety of its operations. Except for a certificate holder using only one pilot in its operations, the certificate holder must have qualified personnel serving in the following or equivalent positions:

- (1) Director of Operations.
- (2) Chief Pilot.
- (3) Director of Maintenance.

<sup>3</sup>Respondent did not file an answer to the complaint or to the motion for summary judgment.

7. Since at least April 27, 2001, CASINO AIRLINES, INC. has not had economic authority issued by the Department of Transportation.
8. CASINO AIRLINES, INC.'S Operations Specifications require a qualified Chief Pilot, Director of Maintenance, Chief Inspector, and Director of Safety.

These allegations, by operation of our rules of practice, were deemed admitted by the unanswered complaint and the law judge's grant of the unopposed motion for summary judgment, which established that the Administrator was entitled to judgment as a matter of law. See Rules 821.31(c) and 821.17(d), 49 C.F.R. Part 821.

On appeal, respondent does not argue that the law judge erred in his rulings. Rather, respondent suggests that the result would have been different had it hired counsel sooner than it did.<sup>4</sup> Whether that is so is not relevant to this appeal. Respondent was responsible for responding to the Administrator's complaint and motion whether represented or not: it did not make a mistake that retention of counsel could have corrected; it simply failed to act in the face of clear notice of the necessity and timing for doing so.<sup>5</sup>

If, as counsel suggests, respondent has altered its circumstances such that re-certification is possible, his and his

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<sup>4</sup>The Administrator's motion to strike various documents not presented to the law judge is granted. It was inappropriate to submit such documents after the record had closed.

<sup>5</sup>Thus, counsel's reliance on decades-old precedent for the proposition that the Board at one time was reluctant to hold pro se litigants responsible for legal errors would be unavailing even if still valid policy.

client's efforts should be directed to that purpose, not to an effort to re-open a case whose opportunity for hearing was forfeited through neglect.

**ACCORDINGLY, IT IS ORDERED THAT:**

1. The respondent's appeal is denied; and
2. The written initial decision and the Administrator's Order of Revocation are affirmed.

ENGLEMAN CONNERS, Chairman, ROSENKER, Vice Chairman, and GOGLIA, CARMODY, and HEALING, Members of the Board, concurred in the above opinion and order.